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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,291	07/18/2003	Georg Bollig	BOLLIG-2 (CONT)	7243

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COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, NY 11576-1696

EXAMINER

LIN, KUANG Y

ART UNIT PAPER NUMBER

1725

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/622,291	BOLLIG, GEORG	
	Examiner	Art Unit	
	Kuang Y. Lin	1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 10/010,528.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/18/03</u> . | 6) <input type="checkbox"/> Other: ____ |

1. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 4, the meaning of "**pivotably** supported" is not clear and there is a lack of antecedent basis in the specification for the claimed feature. Also, in line 4+, it recites that the casting device comprises **at least one pair** of parallel casting rollers. However, there is **only one pair** of casting rollers which is installed in the casting device while the other pair(s) is/are in standby mode. In claim 1, line 8, the meaning of "same design" is considered to be vague and indefinite since the rolls with different diameter and length are still within the meaning of "same design". It is suggested to change "same design" to "same diameter and length" to render the meaning definite. In claim 1, 4th line from the last, the meaning of "a multitude of interchangeable pairs of casting rollers" is not clear. It is suggested to change "a multitude" to "at least two pairs" to render the meaning definite. In claim 2, line 3, it is suggested to rewrite as "length and a diameter so" to render the meaning definite.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyazawa.

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Miyazawa substantially shows (see, for example, col. 7, line 41+ and col. 8, line 6+ as well as figures 1 and 3 wherein it discloses that twin roll caster of different diameters and shell lengths are used in a twin roll casting device) the invention as claimed except that his twin roll casting use magnetic force field to confine the molten metal. However, he does mention that it is conventional to provide a side dam in each roll end as a seal. It would have been obvious to use the conventional side dam as a seal if a width of the strip is the same as the shell length. With respect to claim 3, it is conventional to use change frame for changing twin roll pairs (see, for example, Nakamori et al and Fish et al). It would have been obvious to provide holding element, bearing element and setting frame for support and adjust each roller. It would have been obvious to provide wear resistant insert for the side dam (see, for example, Spink).

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No.

6,612,362. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed disclosure of the patent discloses the invention as claimed.

6. Claim 2 contains an allowable subject matter and will be allowed upon the rejection under 35 USC 112 supra is overcome and being rewritten in an independent format, and filing of a terminal disclaimer to overcome the double patenting rejection.

7. **It is noted that during the prosecution of the parent application S.N. 10/010,528, an error had occurred, the language of "said pairs of casting rollers have different diameters based on their *widths* (*sic*, it shall be "*lengths*" since the word "widths" is used referring to the widths of thin-strip)" as appearing last two lines of claim 1 should not be deleted when allowing the claimed. Without that language the scope of the claim will read on the conventional twin roll apparatus wherein two identical interchangeable pairs of twin roll sets are used.**

8. Applicant is required to up date the status of parent application in the specification.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuang Y. Lin whose telephone number is 571-272-1179. The examiner can normally be reached on Monday-Friday, 10:00-6:30,.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas X Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kuang Y. Lin
Primary Examiner
Art Unit 1725

2-12-04